

2012 Court Rules

*Court Services Division
Administrative Office of the Courts*

This document summarizes court rules and rule amendments adopted by the Arizona Supreme Court during its rules agendas in August and December 2012.

This summary includes a hyperlink in the rule petition number (e.g., R-12-0000) to the Court's order promulgating the rule change. The text of the rule change appears with the order. This document provides only a summary; therefore, readers may wish to review the full text of specific rule changes. This summary includes potential impacts of a rule change on the courts.

The effective date of rule changes in this 2012 summary is **January 1, 2013**, with two exceptions:

(1) The Rules of Procedure for Judicial Review of Administrative Decisions (R-12-0030) have an effective date of July 1, 2013.

(2) The amendments to the Criminal, Supreme Court, and Juvenile rules that enhance protections to crime victims (R-12-0004) have a September 1, 2013 effective date.

With a few exceptions, rule changes regarding the practice or admission to the practice of law have not been included in this summary. Please see the Clerk's [August 28, 2012 amended minutes](#) as well as the [December 2012 minutes](#) for further information concerning new and amended rules on these topics.

The Court Services Division of the Administrative Office of the Courts prepared this summary. If you have any questions concerning this document, please contact Mark Meltzer, at (602) 452-3242, or by e-mail at MMeltzer@courts.az.gov.

Rules of Civil Procedure

Rule	Affects	Summary and Impact
Civil Rule 4(d) Civil Rule 4(e) R-12-0021	Superior Justice Judges Clerks Admin	<p><u>Summary:</u> The amendments to Rule 4 strike references to the “registration” requirements for private process servers; private process servers are governed by the existing ACJA § 7-204. Individuals who meet the criteria of ACJA § 7-204 are “certified” as private process servers under that code section. Rule 4 is also amended to strike references to the residency requirements; corresponding changes to ACJA § 7-204 also delete the requirement that an applicant be a “bona fide resident” of Arizona for at least one year preceding the application for certification as a private process server. ACJA § 7-204 specifies the application, examination, certification, renewal, complaint, and disciplinary process. Once certified, a private process server is issued an identification card by the Clerk of the Superior Court and is eligible to serve process statewide.</p> <p><u>Impact:</u> Private process servers are governed by the existing certification requirements of ACJA § 7-204.</p> <ul style="list-style-type: none"> • ACJA § 7-204(D)(3) describes the role and responsibilities of Clerks of the Superior Court in the application and disciplinary process. • ACJA § 7-204(D)(4) describes the roles and responsibilities of the Presiding Judges of the Superior Court in the application and disciplinary process.
Civil Rule 4.1(i) 11-0031	Superior Justice Judges Clerks	<p><u>Summary:</u> This rule change simplifies service on a governmental entity.</p> <p><u>Impact:</u> The rule consolidates three sections of former Rule 4.1 into a single section (h). Service on a governmental entity is now done by delivering the summons and pleading to the following individuals:</p> <ul style="list-style-type: none"> • for service upon the State, the Attorney General • for service upon a county, the Clerk of the Board of Supervisors • for service upon a municipal corporation, its Clerk • for service upon any other governmental entity, the individual designated by the entity pursuant to statute to receive service, or if none, then the chief executive officer, or alternatively, the official secretary, clerk, or recording officer of the entity as established by law.
Civil Rule 8(c) R-11-0035	Superior Judges	<p><u>Summary:</u> This rule change eliminates “discharge in bankruptcy” as an affirmative defense that is deemed waived unless it is pled in the answer.</p>

2012 Rule Impacts

		<p><u>Impact:</u> A defendant may raise an affirmative defense of “discharge in bankruptcy” subsequent to the pleading stage.</p>
<p>Civil Rule 16(g)(2) and Rule 84: Form 3</p> <p>R-11-0042</p>	<p>Superior</p> <p>Judges Clerks Admin</p>	<p><u>Summary:</u> The change abrogates Rule 16(g)(2) and Rule 84, Form 3, and eliminates the need for parties to file an Alternative Dispute Resolution report with the court.</p> <p><u>Impact:</u> Former Rule 16(g)(2) required the parties to confer no later than 90 days after the first appearance of a defendant regarding ADR, and to use Form 3 to inform the court of the result of that conference. These requirements are eliminated effective January 1, 2013. Courts may therefore remove corresponding event codes.</p>
<p>Civil Rule 30(h) Civil Rule 45 Civil Rule 45.1</p> <p>R-12-0022</p>	<p>Superior</p> <p>Judges Clerks Admin</p>	<p><u>Summary:</u> Arizona has now adopted provisions of the Uniform Interstate Depositions and Discovery Act.</p> <ul style="list-style-type: none"> • Rule 30(h) [“Depositions for foreign jurisdiction”] is deleted • Rule 45(b) concerning subpoenas is modified • Rule 45.1 is a new rule that adopts provisions based on the Uniform Act <p><u>Impact:</u></p> <p>Rule 45(b): The superior court of the county in which a hearing or trial will be held (or, for a deposition, the superior court of the county where the case is pending) will issue a subpoena, except as provided in new Rule 45.1 for subpoenas involving interstate discovery.</p> <p>Rule 45.1: This new rule governs interstate discovery procedures.</p> <ul style="list-style-type: none"> • The former procedure under Rule 30(h) is eliminated. That procedure required the party requesting a subpoena relating to a case that was pending in another state to file an application under oath as a civil action in Arizona. • To request issuance of a subpoena under new Rule 45.1, a party must present a foreign subpoena to a clerk in the Arizona county where discovery is sought. The foreign subpoena must include the following phrase below the case number: “For the issuance of an Arizona Subpoena Under Ariz. R. Civ. P. 45.1” • When a party presents a foreign subpoena to a clerk, the clerk must promptly issue a signed but otherwise blank subpoena to the party requesting it; and the party must complete the subpoena in the manner specified by the rule before serving it.

2012 Rule Impacts

		<ul style="list-style-type: none"> • A party serves a subpoena issued under Rule 45.1 as provided in Rule 45(d). • A motion for a protective order, a motion to quash the subpoena, etc., must be filed as a separate civil action under Rule 45.1. The new action must bear the caption that appears on the subpoena. The following phrase must appear below the case number of the newly filed action: “Motion or Application Related to a Subpoena Issued Under Ariz. R. Civ. P. 45.1” • Any later motion or application relating to the same subpoena must be filed in the same action. <p>The clerk may need new event codes for issuance of a subpoena under new Rule 45.1, or for the filing of a civil action under the new rule. The clerk must assure that a request for a subpoena under this rule, or a separate civil action filed under this rule, contains the language required by this rule in the caption.</p>
Civil Rule 31(c) R-11-0044	Superior Judges Clerks Admin	<p><u>Summary:</u> The Court has deleted this rule. As a result, there is no longer a requirement that parties file depositions upon written questions.</p> <p><u>Impact:</u> This change harmonizes depositions upon written questions with other discovery rules, which do <u>not</u> require a party to automatically file completed discovery with the court.</p>
Civil Rule 53(b)(3) R-11-0032	Superior Judges Clerks Admin	<p><u>Summary:</u> This amendment changes the requirement that a prospective master file a conflicts affidavit before appointment. It now requires instead that the prospective master file the affidavit after the court refers a matter to the master, but before the master accepts the appointment.</p> <p><u>Impact:</u> This change will allow a judge to follow the usual practice of referring a matter to a master prior to having a conflicts affidavit, in order to save time. The master must still file the affidavit before accepting the appointment.</p>
Civil Rule 55 [also ARFLP Rule 44] R-11-0038	Superior Judges Clerks Admin	<p><u>Summary:</u> This change clarifies that the entry of default occurs upon acceptance by the clerk of the filed application for entry of default.</p> <p><u>Impact:</u> This rule change intends to make clear that, beyond the acceptance of a filed application, the clerk is not required to perform any other ministerial act, such as signing or sealing a document, to enter default.</p>
Civil Rule 56	Superior	<p><u>Summary:</u> This amendment makes a variety of changes to Rule 56.</p>

R-11-0034	<p>Judges Clerks Admin</p>	<p>Impact: The “Comment to 2013 Amendments to Rule 56,” which appears after the full text of Rule 56(h), contains a summary of the changes to this revised rule.</p> <p>Rule 56(a): The summary judgment standard is now in this section; it was previously in Rule 56(c).</p> <p>Rule 56(b): This section sets the earliest that a motion can be filed: by a claimant, 20 days from service, but no sooner than the date that the answer is due, or after service of a 12(b)(6) or MSJ by the adverse party; and by any other party, at any time after the action is commenced.</p> <ul style="list-style-type: none"> • This section also provides the latest day for filing: as set by the court or by local rule; or 90 days before the trial date (as in the previous rule.) <p>Rule 56(c): A party may request a hearing on a summary judgment motion, but the court need not set a hearing if the court determines that the motion should be denied, or if the motion is uncontested.</p> <ul style="list-style-type: none"> • This section keeps the response/reply times of 30/15 days after service, respectively. It also allows the time to be shortened or extended by court order or by stipulation. However, court approval is required for a stipulated extension that would allow a party to file a response or reply less than five days before a hearing, or that would require postponement of a hearing or other scheduling modification. • The requirements for the content of a motion, or of an opposition to a motion, are consistent with what was in the previous version of Rule 56(c). <p>Rule 56(d): If the court grants a motion in part, it may enter an order stating any material fact, or an item of damages, that is not in dispute, and treat that fact or item as established.</p> <p>Rule 56(e): This section concerning the form of affidavits is generally consistent with previous provisions, but the section has been restyled. The section retains the prior requirement, that a defending party may not rely on allegations or denials of its own pleading, but must by affidavits or otherwise set forth specific facts that show a genuine issue for trial.</p> <p>Rule 56(f): This section, now entitled “when facts are unavailable to the non-movant; request for Rule 56(f) relief and expedited hearing,” adds several new elements.</p> <ul style="list-style-type: none"> • Filing a Rule 56(f) request, by itself and without an order
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2012 Rule Impacts

		<p>from the court, does not extend the date by which the opposing party must respond to the motion.</p> <ul style="list-style-type: none"> • The court will not consider a Rule 56(f) request if it does not include a separate certification that the party has made a good-faith effort to resolve the matter after personally consulting with the opposing party. • A response to a Rule 56(f) request is not required, unless ordered by the court; but the party must file any response no later than two days before a Rule 56(f) hearing. • The court must hold an expedited hearing on the request, in person or via telephone, within 7 days after the request is filed, but the hearing may be set later if the court's calendar does not allow a hearing within this time. <p>Rule 56(g): The sanction provision of the old rule concerning affidavits filed in bad faith remains, but the section adds a requirement that the court must allow notice and a reasonable time to respond before imposing a sanction.</p> <p>Rule 56(h): This brief but substantial new section allows the court, after giving notice and a reasonable time to respond, to (1) grant summary judgment for a non-movant; (2) grant the motion on a ground not raised by a party; or (3) consider summary judgment after identifying for the parties materials facts that are not genuinely in dispute.</p>
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Rules of Criminal Procedure

Rule	Affects	Summary and Impact
<p>Criminal Rules 2.3(b) and 31.13(c) [also Supreme Court Rules 111(i) and 123(g); and Juvenile Rule 106(H)]</p> <p>R-12-0004</p> <p>Effective date: Sept. 1, 2013</p>		<p><u>Summary:</u> These rule changes require use of a substitute "victim identifier" in lieu of the victim's name in cases where defendant was charged with an offense under Title 13, Chapters 14, 32, 35, or 35.1 [sexual offenses, prostitution, obscenity, or sexual exploitation of children], or in cases in which the victim was a juvenile at the time of the offense. A victim identifier means a victim's initials, a pseudonym or other substitute for the victim's true full name.</p> <p><u>Impact:</u></p> <p>Crim. R. 2.3(b): The prosecuting attorney must advise the clerk, when filing a charging document in one of these cases, that the case is subject to the provisions of SCR 123(g)(1)(c)(ii)(h).</p> <p>Crim. R. 31.13(c): Appellate briefs in one of these cases must use a victim identifier in place of the victim's name.</p>

2012 Rule Impacts

		<p>Juv. R. 106: Also requires use of a victim identifier in place of the victim's name in appellate briefs in a case involving an allegation of a delinquent act against a juvenile for an offense listed in A.R.S. Title 13, chapters 14, 32, 35, or 35.1, or in which the victim was a juvenile at the time of the offense.</p> <p>SCR 111(i): Requires all opinions, memorandum decisions, and orders in one of these cases to use a victim identifier; but this does not apply to a victim who is deceased when the court enters the opinion, decision, or order. A victim may also waive this requirement by written notice to the court.</p> <p>SCR 123(g): Remote electronic access is limited for a criminal case involving both a juvenile victim, and an adult victim of the above offenses. A party, any person, or the court on motion and for good cause may allow remote electronic access, with provisions to protect the victim from embarrassment or oppression.</p>
<p>Criminal Rule 18.3 (comment)</p> <p>R-11-0040</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Admin</p>	<p><u>Summary:</u> The revision deletes a paragraph in the comment to this rule, so the comment is consistent with a previous change to the text of the rule that protects jurors' privacy.</p> <p><u>Impact:</u> The deleted comment had required the court to furnish the parties with jurors' "basic biographical information," including such things as the juror's address, age, marital status, and ages of children. Rule 18.3 does <u>not</u> require disclosure of such information to the parties. Rule 18.3 specifies other information about jurors that the court must provide to the parties.</p> <p>Because the rule rather than the comment contains the operative text, the deletion of this portion of the comment should have no impact.</p>
<p>Criminal Rule 31.19(h) [also ARCAP Rules 4(a), 15(a), and 23(h)]</p> <p>R-11-0045</p>	<p>Superior Clerks Admin</p>	<p><u>Summary:</u> The Court previously adopted parallel amendments to the Arizona Rules of Criminal Procedure and the Arizona Rules of Civil Appellate Procedure that became effective on January 1, 2012. The current amendments correct oversights in those previous amendments concerning electronic filing.</p> <p><u>Impact:</u> These amendments to Arizona Rules of Civil Appellate Procedure, Rules 4(a), 15(a), and 23(h), and to Criminal Rule 31.19(h), should have minimal court impact.</p>
<p>Criminal Rule 32 and Rule 41: Form 25</p> <p>R-12-0009</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks</p>	<p>The amendment addresses an inconsistency between Form 25 (the petition for post-conviction relief), which requires submission of a PCR petition under oath; and Rule 32.5 ("contents of petition"), which does not contain this requirement.</p> <p><u>Impact:</u></p>

2012 Rule Impacts

	Admin	<ul style="list-style-type: none"> The amendment to Rule 32.5 added three words, as follows: “Facts within the defendant’s personal knowledge shall be noted <u>in an affidavit</u> separately from other allegations....” Form 25 deletes a notarization requirement. The new form requires the Petitioner to “certify” rather than to “swear or affirm.” <p>The court should modify the Form 25 it provides to criminal defendants, either on paper or electronically, to include these revisions.</p>
Criminal Rule 38.1 Criminal Rule 38.2 R-12-0016	Superior Justice Municipal Judges Clerks Admin	<p><u>Summary:</u> The Court has eliminated certain actions it previously required the superior court to take on deferred prosecution cases that were pending in a limited jurisdiction court.</p> <p><u>Impact:</u></p> <p>Rule 38.1 (“Application for suspension order”): Section (c) now states that the court “shall” [formerly “may”] order suspension of further proceedings. The suspension is “for the period of time specified in the motion up to two years” [formerly two years].</p> <p>Rule 38.2 (“Resumption of prosecution”): Both section (a) of this rule and the comment have deleted the word “superior” before the word “court.” A prosecutor in a limited jurisdiction court may therefore file a notice to vacate the suspension directly in that court, rather than in the superior court.</p>

Rules of Evidence

Rule	Affects	Summary and Impact
Evidence Rules: Prefatory comment and comments to Rules 609, 803, and 804 R-11-0039	Superior Justice Municipal Judges	<p><u>Summary:</u> The Court added text to the prefatory comment, as well as the comments to Rules 609, 803, and 804 of the Rules of Evidence. These comments were previously amended, effective January 1, 2012, but certain items were either overlooked in the earlier version or were suggested by the Court at its September 2011 Rules Agenda.</p> <p>Note that the Court adopted this rule petition only in part. The Court rejected the part concerning a change to the text of Rule 608 and a proposed comment to Rule 608.</p> <p><u>Impact:</u> Generally, there is no impact, as these changes for the most part involve portions of comments describing whether an Arizona rules does, or does not, conform to a corresponding federal rule.</p>

2012 Rule Impacts

		However, note this change to the comment to Rule 609 (“Impeachment by evidence of a criminal conviction”), in which the word “may” has been changed to “must”: “...this evidence may <u>must</u> be admitted only ‘if the court can readily determine that establishing the elements of the crime required proving – or the witness’s admitting – a dishonest act or false statement.’ ”
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Rules of the Supreme Court (“SCR”)

Rule	Affects	Summary and Impact
SCR Rule 42 ER 7.5(a) R-11-0046	Superior Justice Municipal Judges Clerks Admin	<u>Summary:</u> Arizona has adopted the ABA’s language from Model Rule of Professional Conduct 7.5 pertaining to the use of trade names by law firms. <u>Impact:</u> Law firms may file documents that include a new trade name allowed under this new provision. A law firm’s trade name may not imply a connection with a government agency, or with a public or charitable legal services organization. Furthermore, a law firm’s trade name may not be in violation of ER 7.1 regarding false or misleading communications about a lawyer or a lawyer’s services.
SCR Rule 123 [also Crim. Proc. Rule 2.3] R-12-0003	Superior Justice Municipal Judges Clerks Admin Probation	<u>Summary:</u> The revisions are largely technical in nature but include substantive revisions that identify employee discipline records as closed, authorize audio or video of a case to be posted online by court leadership, and add additional offenses to the list for which the prosecutor must advise the clerk upon filing. <u>Impact:</u> Rule 123(b) (“Definitions”): The amendment removes a definition of “public purpose organization” and adds a definition of “private organization serving a public purpose” to conform to an identical revision in ACJA § 1-606. The amended rule substitutes these definitions in other sections of Rule 123. Rule 123(e) (“Access to administrative records”): The amendment identifies “employee discipline records” as being closed except upon a showing of good cause for release. Rule 123(g) (“Remote electronic access”): The revisions (1) clarify that the superior court in all counties shall display criminal case minute entries online; (2) clarify what constitutes a high profile case, for which case records may be posted online; and (3) allow the presiding judge of a court to authorize audio or video of a case to be posted online. Rule 123(g) and Criminal Rule 2.3(b) (“Content of complaint”): The revisions expand the list of criminal charges (in which a juvenile is the victim of a sexual offense) for which the prosecutor must advise

2012 Rule Impacts

		the clerk upon filing so the clerk can ensure that the documents are not made accessible by remote electronic access.
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Rules of Procedure for the Juvenile Court

Rule	Affects	Summary and Impact
Juvenile Rules 104-107 R-12-0012	Superior Clerks Admin	<p><u>Summary:</u> In September 2011, the Court adopted parallel amendments to the Arizona Rules of Criminal Procedure and the Arizona Rules of Civil Appellate Procedure related to the implementation of electronic filing in Arizona appellate courts. Those amendments became effective on January 1, 2012. The amendments made by the Order on this rule petition result in similar changes to the Juvenile Rules. See also the change to Rule 104 noted below.</p> <p><u>Impact:</u> The change to Rule 104(C) requires the clerk to serve copies of the notice of appeal within “two business days” of filing [formerly “immediately upon” filing.]</p>

Rules of Probate Procedure

Rule	Affects	Summary and Impact
Probate Rule 11 R-12-0014	Superior Judges Clerks Admin	<p><u>Summary:</u> Rule 11 currently permits appearances by telephone. This amendment now also allows court appearances electronically, i.e., by video conference.</p> <p><u>Impact:</u> The procedure for applying for, and the required quality of, an electronic appearance, or electronic testimony, are the same as for a telephonic one.</p> <ul style="list-style-type: none">• The required quality is that the voices of all parties and counsel must be audible to each participant, the judicial officer, and, where applicable, the certified reporter or the electronic recording device.

Rules of Family Law Procedure (“ARFLP”)

Rule	Affects	Summary and Impact
Comment ARFLP Rule 24 ARFLP Rule 49 ARFLP Rule 91 Form 1 R-12-0031	Superior Judges Clerks Admin	<p><u>Summary:</u> These rule amendments address terminology changes contained in SB 1127, Chap 309, Laws 2012. Please see the “Prefatory Comment to 2013 Amendments” for an explanation of these changes.</p> <p><u>Impact:</u> Some of the terminology changes are:</p>

2012 Rule Impacts

<p><i>While the effective date is January 1, 2013, the Court adopted these rule amendments on an expedited basis.</i></p>		<p>Legal custody = legal decision-making [prefatory comment] Physical custody/parental visitation = parenting time [pref. comm.] Grandparent visitation = third party rights [Rules 24 + 49] Parenting time by a non-parent = visitation by a non-parent [Form 1]</p> <p>Courts that print or electronically provide their own forms will need to revise Form 1 (limited scope representation) to conform it to the amendments.</p>
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Rules of Protective Order Procedure (“ARPOP”)

Rule	Affects	Summary and Impact
<p>Rule 1(C) [also ARFLP Rule 13(D) and SCR 123(d)]</p> <p>R-12-0013</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Admin</p>	<p><u>Summary:</u> Public disclosure of information about the filing or content of a protective order is prohibited, prior to service of the protective order.</p> <p><u>Impact:</u></p> <ul style="list-style-type: none"> • The section heading of ARPOP Rule 1(C) has been changed from “Access to the Courts” to “Access to the Courts and Protective Order Case Information” • New paragraph 1(C)(6) provides that “for as long as a plaintiff has the ability by law to have a protective order served or unless otherwise ordered by the court, the court shall not make publicly available any information regarding the filing of or contents of a petition for or issuance of a protective order until proof of service of the protective order has been filed with the court. The court may share information about the protective order with the plaintiff, prosecutors, or with law enforcement.” Each court must assure that it has processes in place to avoid premature release of this information to the public. • The rule amendments make corresponding changes to the “access to records” provisions of ARFLP 13(d) and Supreme Court Rule 123(d).

Rules of the Commission on Judicial Conduct

Rule	Affects	Summary and Impact
<p>Rules of the Commission on Judicial Conduct, Rules 23 and 27</p>	<p>Superior Justice Municipal</p>	<p><u>Summary:</u> These amendments clarify available alternatives for review of informal sanctions in judicial conduct proceedings.</p> <p><u>Impact:</u> For information only</p>

2012 Rule Impacts

R-12-0001	Judges	
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Justice Court Rules of Civil Procedure (“JCRCP”)

Rule	Affects	Summary and Impact
Justice Court Rules of Civil Procedure R-12-0006	Justice Judges Clerks Admin	<p><u>Summary:</u> The Court has adopted a new set of rules of procedure for civil lawsuits in justice court (the “JCRCP”) that replace the Arizona Rules of Civil Procedure.</p> <p><u>Impact:</u> The superior court rules served as the model for the justice court civil rules, but the justice court rules are different from the superior court rules in many ways. A few of the differences include the following:</p> <ul style="list-style-type: none"> • The justice court rules have eliminated procedures in the superior court rules that are rarely used in justice court, or that are inapplicable in justice court as a matter of law. • The language and procedures in the justice court rules are simplified. The length of the justice court rules is about one-fifth the length of the superior court civil rules. • The justice court rules have special provisions that apply to assigned debt claims. • The rules require that plaintiff serve a “notice to the defendant” with the summons. The rules also require that other specific notices accompany discovery requests and motions. The rules provide a grace period for responding to requests for admissions.

Rules of Procedure for Judicial Review of Administrative Decisions

Rule	Affects	Summary and Impact
Rules of Procedure for Judicial Review of Administrative Decisions R-12-0030 Effective date: July 1, 2013	Superior Judges Clerks Admin	<p><u>Summary:</u> The amendments conform these rules with conform amendments made to related statutes (SB 1193, Chap. 322, Laws 2012) that use new terminology for superior court review of administrative decisions.</p> <p><u>Impact:</u></p> <p>Was: plaintiff or defendant Now: appellant or appellee</p> <p>Was: complaint Now: notice of appeal</p>

2012 Rule Impacts

		<p>Was: answer Now: notice of appearance or motion</p> <p>Was: trial court Now: superior court</p>
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Continued Rule Petitions

Petition Number and Rule	Summary
R-11-0016 Criminal Rule 32.2(b)	The proposed change would amend Rule 32.2(b) and provide that the doctrine of preclusion in Rule 32.2(a) would not apply when the basis for post-conviction relief is the court's lack of jurisdiction to render judgment or impose sentence.
R-11-0024 Supreme Court Rule 42, ER 1.15 (comment)	<p>If a dispute arises between a client and a third party over the third-party's interest in property that is in the lawyer's possession, such as a third-party who has a lien claim against personal injury proceeds that are held by counsel, this proposed change would shift the burden to the third-party to take action to protect its interest.</p> <p><i>With the concurrence of the Petitioners, the Court has continued this matter to the 2013 rules cycle to allow the State Bar of Arizona to establish a task force to consider this problem.</i></p> <p><i>This matter will be subject to the deadlines for the 2013 rules cycle, with the new comment period ending on <u>May 20, 2013</u>.</i></p>
R-11-0033 Supreme Court Rule 42, ER 3.8	<p>This petition requests that the Court incorporate ABA Model Rule 3.8(g) into Arizona's Code of Professional Responsibility. The amendment would establish new ethical duties for prosecutors in situations where they become aware, after conviction, of evidence clearly indicating that an innocent person may have been wrongfully convicted.</p> <p><i>The Court continued this petition and reopened it for comments on staff draft. Comments are due <u>May 20, 2013</u>. The Court has requested comments on five ethical questions.</i></p>
R-12-0018 Supreme Court Rule 42, ER 8.4 (comment)	<p>ER 8.4(d) currently provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. The proposed amendment, among other things, would make the comment to the rule more inclusive by eliminating special classes of protected persons who, by their specific inclusion, appear to exclude other equally deserving persons from protection.</p> <p><i>The Court continued this petition for consideration in conjunction</i></p>

2012 Rule Impacts

	<i>with any proposal from a task force that the State Bar might establish to study and to make recommendations on this matter.</i>
R-12-0017 Supreme Court Rule 123	The petition requests that probate records be available to the public by remote electronic access; and that a member of the public not be required to have a valid Arizona driver's license or non-operator identification to obtain remote access to electronic records.
R-11-0043 ARPOP Rule 1(M)	This rule amendment would require a court that has issued a protective order, after the court has received proof of service of the protective order on defendant, to mail a copy of the proof of service to the plaintiff.
R-12-0007 ARPOP Rule 6(E)(4)(e)(2)	The petition sought the repeal of a rule that allows a judge to inquire regarding a defendant's access to firearms in an Injunction Against Harassment Proceeding, and to prohibit the defendant from possessing firearms for the duration of the Injunction Against Harassment. <i>The Court has opened a draft amendment for comment. Comments are due by May 20, 2013.</i>

Rejected Rule Petitions

Petition Number and Rule	Summary
R-12-0008 Civil Rules 4.1(d) and 5(c) [also ARFLP Rules 41(C) and 41(D)]	The petition addressed issues related to service, including the definition of "suitable age and discretion;" how to make service when access to a residence is restricted because the home is in a gate-guarded community; and how to make service on a defendant at his or her usual place of business.
R-11-0018 Civil Rule 10(d)	The petition requested a change in the number of lines per page of filed documents from 28 lines to 22 lines.
R-11-0037 Civil Rule 15(a)(3)	Under this proposal, a party would have filed a response to an amended pleading only if one was "required."
R-11-0017 Civil Rule 26(b)(4)	The petition requested that the Arizona rule conform to the federal rule; and that the Arizona rule provide work product protection for an expert's draft reports, and for most of counsel's communications with an expert witness.
R-11-0027 7 Ariz. Legal Forms, Crim.	This petition requested a change in the text in Crane McClennan's treatise on criminal procedure concerning allegations of enhancements, and specifically, a change of the word "amends" to "supplements."

2012 Rule Impacts

Procedure, § 12.7, Form 2 (2 nd Ed.)	
R-12-0015 Criminal Rule 12.9(b)	The petition noted that Rule 12.9 (Challenge to Grand Jury Proceedings) currently lacks a clear deadline to file a motion for a new finding of probable cause following the remand of a case for a new trial. This proposed amendment would have set this deadline as no later than 25 days after the mandate remanding the case.
R-12-0023 ARPOP Rule 1(D)(4)	The petition requested that when a court sustained a criminal order of protection in a domestic violence case following a hearing, the court could order only the defendant (and not other members of the public) to remain in the courtroom for a short time after the court excused the plaintiff, to avoid contact between the parties.